



An
Bord
Pleanála

Inspector's Report

ABP-305307-19

Development	RETENTION: Permission for development comprising retention of office use.
Location	5 & 6, Clarendon Mews, Lad Lane, Dublin 2
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3244/19
Applicant(s)	Tim Boland
Type of Application	Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Tim Boland
Observer(s)	None
Date of Site Inspection	2 nd December 2019
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1.1. The appeal site comprises Nos. 5 and 6 Clarendon Mews, a pair of two-storey mews houses that lie on the north-western side of Lad Lane, to the rear of Nos. 5 and 6 Fitzwilliam Place, which are Protected Structures, approximately 8m northeast of the junction with Cumberland Road.
- 1.1.2. The character of the lane is mixed with some residential but mostly commercial uses, particularly on the eastern side of the lane and within the Fitzwilliam Square properties. The western side of the lane contains several 2-storey mews houses to the rear of the Protected Structures, some of which have been converted to office use. This side of the lane also retains much of its historic character with high stone walls of rubble coursing many of which still have arched carriageways. A number of the rear gardens of the Protected Structures have, however, been converted to surface car parks serving the commercial uses of the main buildings fronting Fitzwilliam Square.
- 1.1.3. The site is bounded on the Lad Lane frontage by a c.3.7m high stone wall into which a modern utilitarian gate and two pedestrian gates have been inserted. The remainder of the wall is largely intact. The existing building is set back Approx. 6.5m behind the boundary wall and there is a central arch way dividing the Mews buildings at ground floor levels providing access to the surfaced car parking to the rear of 5 and 6 Fitzwilliam Place.
- 1.1.4. The site is 357sqm in area.

2.0 Proposed Development

- 2.1.1. The development will comprise the retention of the change of Mews house to office use.
- 2.1.2. The floor space of each unit measures 144.3sqm, amounting to a combined total floor area of 288.6sqm over ground and first floor levels.

3.0 Planning Authority Decision

3.1. Decision

REFUSED for the following reason:

The proposed development, by itself and by the precedent for which a grant of permission for it would set, would be contrary to the stated provisions of the Core Strategy of the City Development Plan 2016-2022 which recognises residential units as a scarce resource and which need to be managed in a sustainable manner so that the housing needs of the city are met. The proposed development, resulting in the loss of 2 mews dwellings for residential use, would also be contrary to the core principles of the Dublin Housing Strategy 2016-2022 which requires that the planning and building of housing and residential space in the city contributes to sustainable and balanced development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Planning Officer's report notes the zoning provisions of the area and the relevant policy objectives as set out in the development plan. It is set out that the proposal would result in the loss of two mews dwellings in the City Centre which is of concern having regard to the existing housing shortage currently experienced within Dublin City. The area is a rent pressure zone, where there is high demand for long term residential rental properties and it is considered that the proposal is contrary to the Core Strategy of the Dublin City Development Plan 2016-2022 which recognises that serviced residential lands are a scarce resource, which need to be managed in a sustainable manner so that the housing needs of the city are met. It is also stated that the proposed development, would result in an unwanted precedent for similar type development in the area which may then result in the further unacceptable loss of residential properties in the area.

3.2.3. Other Technical Reports

Drainage Division – (Report dated 15th July 2019) No objection subject to conditions

3.3. Prescribed Bodies

Transport Infrastructure Ireland – In their report dated 3rd July 2019 the TII set out that the site falls within the area covered by the Supplementary Development Contribution

Scheme (Section 49, Planning & Development Act, 2000 as amended). Luas Cross City (St. Stephen's Green to Broombridge Line).

3.4. **Third Party Observations**

The Area Planner in their report refers to receipt of one submission in relation to the development. A brief summary of the issues raised in the submissions to the Planning Authority are set out below:

- The site is zoned Z8 and it is important that residential use is retained.
- Condition 2 of the parent permission 0985/98 stated that the use shall be maintained as residential.
- The case made for change of use is not strong in terms of footpath, anti-social behaviour and street lighting.

4.0 **Planning History**

Site

DCC Reg. Ref. 3460/01 - Retention of alterations to two two-storey terraced mews houses at 5 & 6 Lad Lane to the rear of nos. 5 & 6 Fitzwilliam Place (protected structures), comprising the conversion of attic spaces to habitable rooms, permission is also sought for change of use of no. 6 Lad Lane from residential dwelling to office use. A split decision was made the alterations were granted and the change of use was refused.

DCC Reg. Ref. 0985/98 - Planning permission granted for the demolition of the existing two storey mews at 5 Lad Lane and construction of two two-storey terraced mews houses including passage for vehicular access to the rear of 5 and 6 Fitzwilliam Place and dismantling and rebuilding of entrance wall and arch.

Surrounding

ABP 303706-19 /DCC Reg. Ref. 4421/18— Permission granted in 2019 for the demolition of the existing up to 7 storey structures on this part of the site and construction of 7 storey mixed-use office development.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

- 5.1.1. The application site is zoned Z8: “to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective.” Office is a permissible use.
- 5.1.2. **Section 14.8.8 states** - Lands zoned Z8 incorporate the main conservation areas in the city, primarily the Georgian Squares and streets. The aim is to protect the architectural character/design and overall setting of such areas. A range of uses is permitted in such zones, as the aim is to maintain and enhance these areas as active residential streets and squares during the day and at night-time. **Offices may be permitted where they do not impact negatively on the architectural character and setting of the area and do not result in an over-concentration of offices.** In the south Georgian core where residential levels are low, it is the aim to encourage more residential use in the area.
- 5.1.3. The site is located within the defined Georgian Core of the City as set out in Figure 17 (Chapter 11) – Dublin City - Historic Core.

Chapter 14 – Land Use Zoning states -

Z8 (Georgian conservation areas) zoning and **permissible land-uses contained within have been re-visited on foot of recommendations contained in the document titled ‘The Future of the South Georgian Core’ (2013).** This comprehensive study sets out a series of recommendations to revitalise this Georgian area, and most of these relate to changes to allowable land uses.

- 5.1.4. **Appendix 2** of the development plan contains the Dublin Housing Strategy for the period of the development plan 2016-2022. Section 2.2 sets the principles and Key Objectives of Dublin’s Housing Strategy

The following sections of the Development Plan, amongst others apply:

QH6 - To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting

community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

5.1.5. Chapter 6 - City Economy and Enterprise

CEE11: To promote and facilitate the supply of commercial space, where appropriate, e.g. retail and office including larger floorplates and quanta suitable for indigenous and FDI HQ-type uses, as a means of increasing choice and competitiveness, and encouraging indigenous and global HQs to locate in Dublin; to consolidate employment provision in the city by incentivising and facilitating the high-quality re-development of obsolete office stock in the city.

5.1.6. Chapter 11 – Built Heritage and Culture

The site is located within an Architectural Conservation Area.

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

5.1.7. Chapter 16 - Development Management Standards

16.10 Standards for Residential Accommodation - The provision and protection of residential amenities is a primary concern of Dublin City Council. This will be achieved through the relevant objectives of the Dublin City Development Plan.

As outlined in the 'Quality Housing' chapter 5, it is an aim of Dublin City Council to encourage and foster living at sustainable urban densities through the creation of attractive mixed-use sustainable neighbourhoods.

Section 16.10.16 refers to Mews Dwellings

5.1.8. National Policy

National Planning Framework – Encourages increased densities in urban areas subject to appropriate design.

National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

5.2. **Natural Heritage Designations**

There are two designed sites within 2.7Km of the site.

- South Dublin Bay SAC (site code 00210) is located 2.7km east of the site.
- South Dublin Bay and River Tolka Estuary SPA (site code 004024) is located 2.7km east of the site.

5.3. **EIA Screening**

Having regard to the nature and scale of the proposed development, the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- It is set out that office use is a permissible use under the zoning objectives - Z8
- The aim of the Dublin City Development Plan to “encourage more residential use in the South Georgian Core” is noted. However, this is separate and distinct from the Z8 zoning objective “to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective.”

- Office use is consistent with Section 14.8.8 of the Plan. Furthermore, it is set out that the aim of securing ‘active residential streets’ does not require the council to pursue residential uses exclusively but encourage a mix of uses.
- Section 14.8.8 states “Offices may be permitted where they do not impact negatively on the architectural character and setting of the area and do not result in an over-concentration of offices”. The development meets these two test –
 - (i) The development is for the retention of a conforming use.
 - (ii) The retention will not result in over concentration of office use. Reference is made to the South Georgian Core Land Study 2012 which identifies the established mix of land uses in the area including residential.
- It is set out that the development would not set a precedent and that building uses in the area have been changing back and forth for hundreds of years.
- It is set out that reference to the Core Strategy and the scarce supply of residential units is technically inaccurate. It is argued that the development is in compliance with the Core Strategy in terms of creating a “Compact City with sustainable neighbourhoods” with a range of uses.
- It is set out that the statement by the planning authority that the loss of two mews dwellings would be contrary to the Housing Strategy is not explained and the Housing Strategy does not address the change of use from residential to office use.
- The development is consistent with objective QH6 – mixed use sustainable neighbourhoods and consistent with objectives set out in Chapter 6 -City Economy and Enterprise of the Development Plan.
- It is set out that the development is consistent with the vision for the South Georgian Core to support and promote a mix of uses as a vibrant and attractive place to live, stay and work.
- It is set out that the office use has existed for approx. 20 years and as such would not result in a loss of existing housing stock. It is also noted that all of Dublin is a rent pressure zone and this issue should carry little weight in this context,

- It is set out that the site is not suited to residential use owing to the lack of public lighting, limited footpath and anti-social behaviour.
- It is set out that the office use has been in existence for in excess of 7 years and as such shall not be subject to proceedings under the Planning and Development Act 2000 (as amended).
- Reference is made to recent Dublin City Council planning decisions for similar type office use in the South Georgian Core.

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development - Office use within Z8 (Georgian Conservation Area) zoning
- Appropriate Assessment

7.1. **Principle of Development - Office use within Z8 (Georgian Conservation Area) zoning**

7.1.1. The appeal relates to the retention of the change of use from residential mews dwellings to office use. No works are proposed as part of the planning application.

7.1.2. The site is located on lands that are zoned Z8, Georgian Conservation Areas where the objective is “to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective” in the Dublin City Development Plan 2016-2022. The development plan establishes that office use is a permissible use within Z8 zoned lands. I note that the general area reflects a mix of uses such as office, retail, residential including student accommodation.

- 7.1.3. The planning authority recommended refusal on the basis that the development would be contrary to the stated provisions of the Core Strategy of the Dublin City Development Plan 2016-2022 which recognises residential units as a scarce resource and which need to be managed in a sustainable manner so that the housing needs of the city are met, it is further stated that the loss of two mews dwellings for residential use, would be contrary to the core principles of the Dublin Housing Strategy 2016-2022 which requires that the planning and building of housing and residential space in the city contributes to sustainable and balanced development. It was concluded that the proposed development would be contrary to the proper planning and sustainable development of the area.
- 7.1.4. The appellant argues that the development is in compliance with the Core Strategy in terms of creating a “Compact City with sustainable neighbourhoods” with a range of uses. In this regard, I note Chapter 2 *Vision and Core Strategy* of the of the development plan states that the policies and objectives in the plan promote intensification and consolidation of Dublin city. The development plan policies seek to underpin the creation of a compact city with mixed-use environments and sustainable neighbourhoods. In relation to residential development section 2.3.3 *Promoting Quality Homes* notes that consistent with creating a compact city and with Dublin’s role in the region, the continued, sustainable management of land zoned for housing is a central element of the core strategy. The subject site is not zoned solely for residential development.
- 7.1.5. Appendix 2 of the development plan contains the Dublin Housing Strategy for the period of the development plan 2016-2022. Section 2.2 Principles and Key Objectives of Dublin’s Housing Strategy seeks to advance policies that provide for the delivery of quality dwellings at higher densities to help create and help maintain a consolidated urban form that fosters the development of compact city neighbourhoods. In turn compact neighbourhoods help ensure a critical mass that contributes to the viability of local residential infrastructure particularly as it relates to local social, economic, amenity, cultural and transport infrastructures.
- 7.1.6. Having regard to the overriding provisions of the Core Strategy and the Housing Strategy to provide a compact city to include the provision of an appropriate mix of uses, I am satisfied that change of use from residential to office use at this location is in accordance with the Core Strategy and the Housing Strategy .

- 7.1.7. Furthermore, Chapter 14 *Land Use Zoning* of the development plan states, “Z8 (Georgian conservation areas) zoning and permissible land-uses contained within have been re-visited on foot of recommendations contained in the document titled ‘The Future of the South Georgian Core’ (2013). This comprehensive study sets out a series of recommendations to revitalise this Georgian area, and most of these relate to changes to allowable land uses”. I am satisfied that the development for retention represents a conforming use within the Z8 zoning and the retention will not result in over concentration of office use in the area in so far as the South Georgian Core Land Study 2012 identifies an established mix of land uses in the area including residential.
- 7.1.8. This is reinforced in Section 4.8.8 of the development plan which states that lands zoned Z8 incorporate the main conservation areas in the city and the aim is to protect the architectural character/design and overall setting of such areas. A range of uses is permitted in such zones, as the aim is to maintain and enhance these areas as active residential streets and squares during the day and at night-time. The plan sets out that offices may be permitted where they do not impact negatively on the architectural character and setting of the area and do not result in an over-concentration of offices.
- 7.1.9. Whilst it is acknowledged that the aim of the Dublin City Development Plan to “encourage more residential use in the South Georgian Core”, I am satisfied that office use is acceptable at this location in accordance with the zoning objectives for the area. I note also that the office use has existed for approx. 20 years and as such would not result in a loss of existing housing stock. Furthermore, no works are proposed on site and therefore there will be no impact on the character of the Architectural Conservation Area.
- 7.1.10. In conclusion, I am satisfied that the retention of the change of use is acceptable and in accordance with the land use zoning objectives for the area. The provision of office development will assist the overall vibrancy and vitality of this area and provide for critical mass of employment generating uses. I consider that in terms of the principle of development, there is policy support for this development.

7.2. **Appropriate Assessment**

Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment issues

arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that planning permission be granted for the proposed development having regard to the reasons and considerations and subject to conditions as set out below.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity, the existing development on site and the policies of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would not detract from the character of the Architectural Conservation Area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained in accordance with the plans and lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such

phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

3. The developer shall pay to the planning authority a financial contribution in respect of LUAS C1 Line Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Irené McCormack
Planning Inspector
3rd December 2019